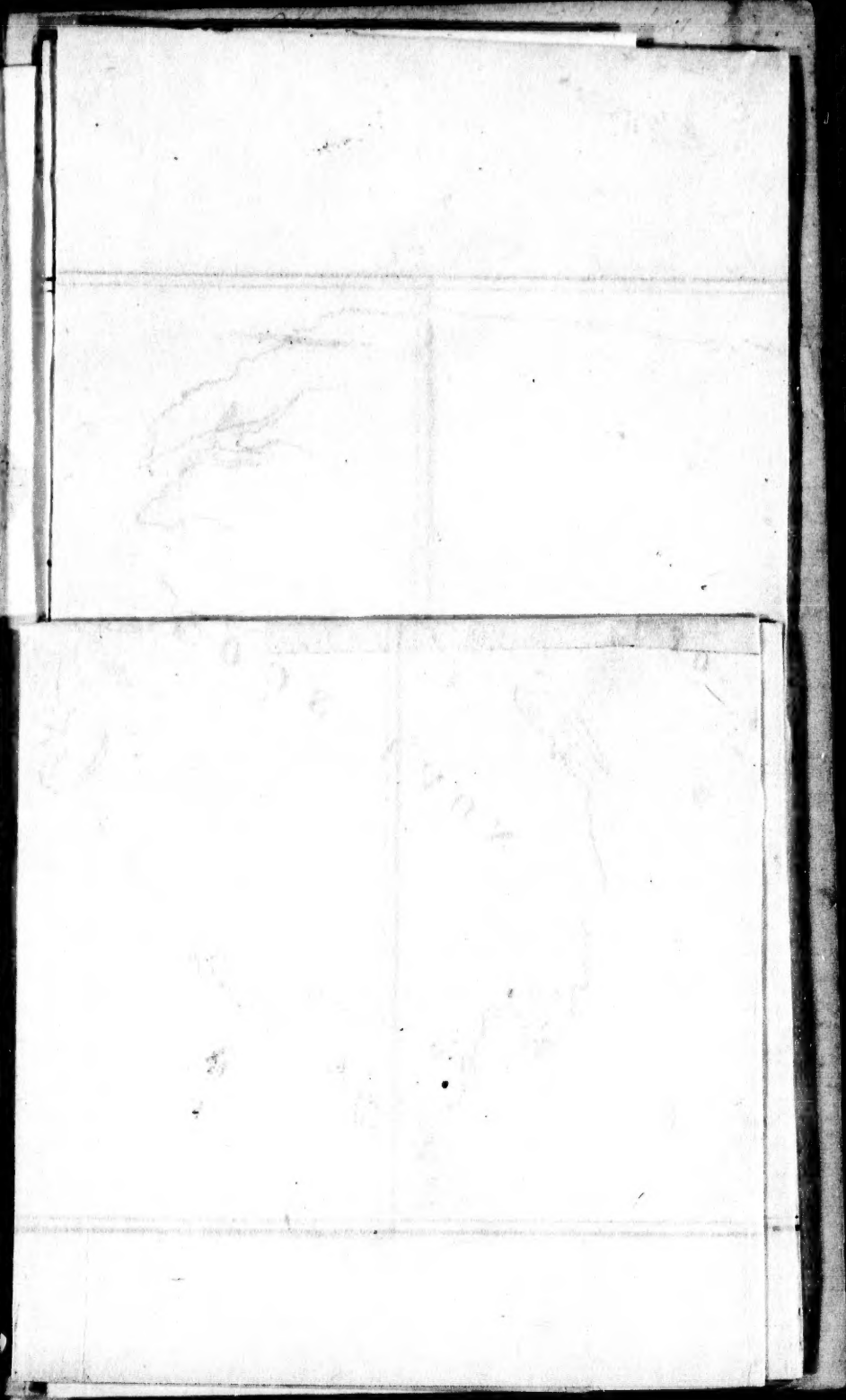


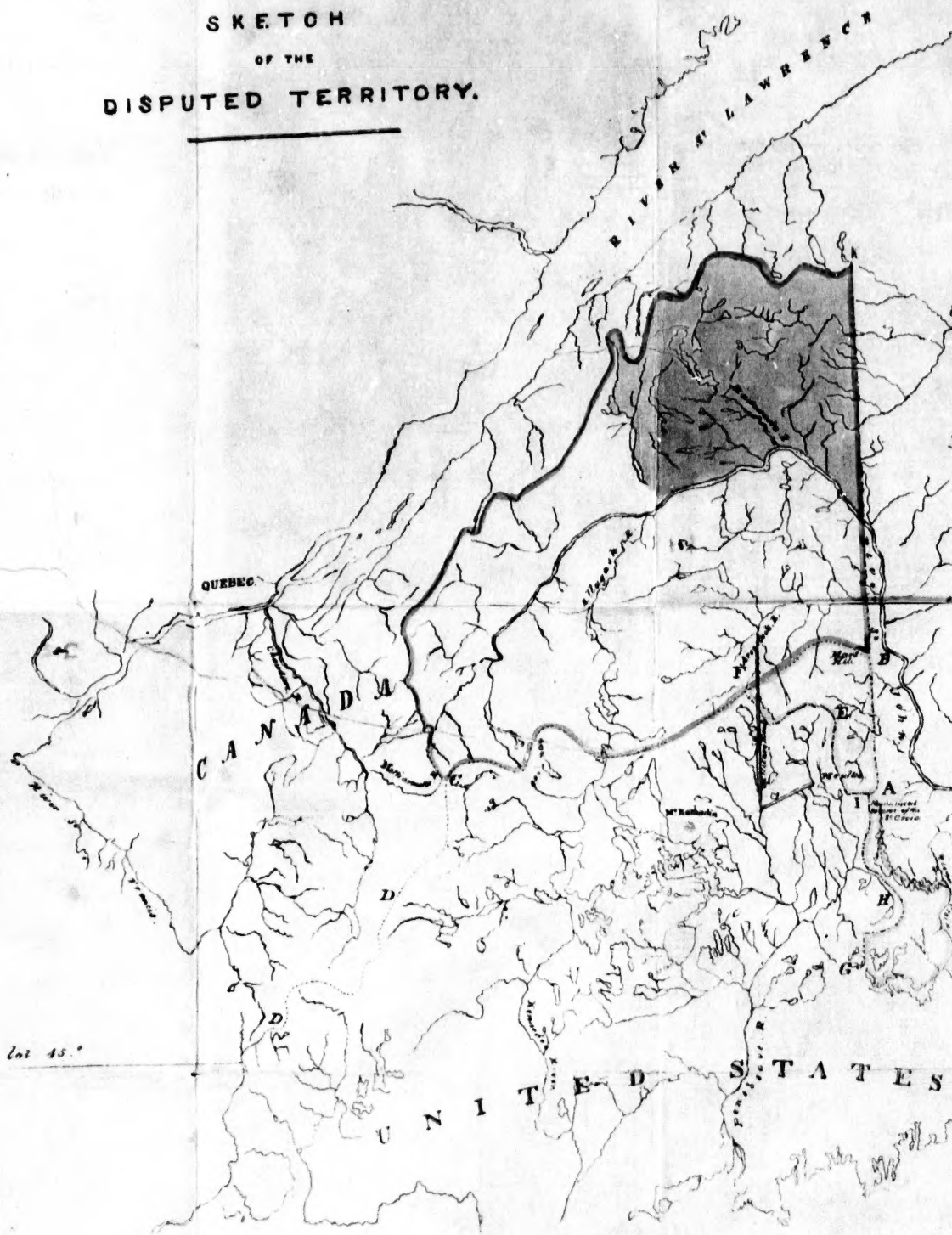
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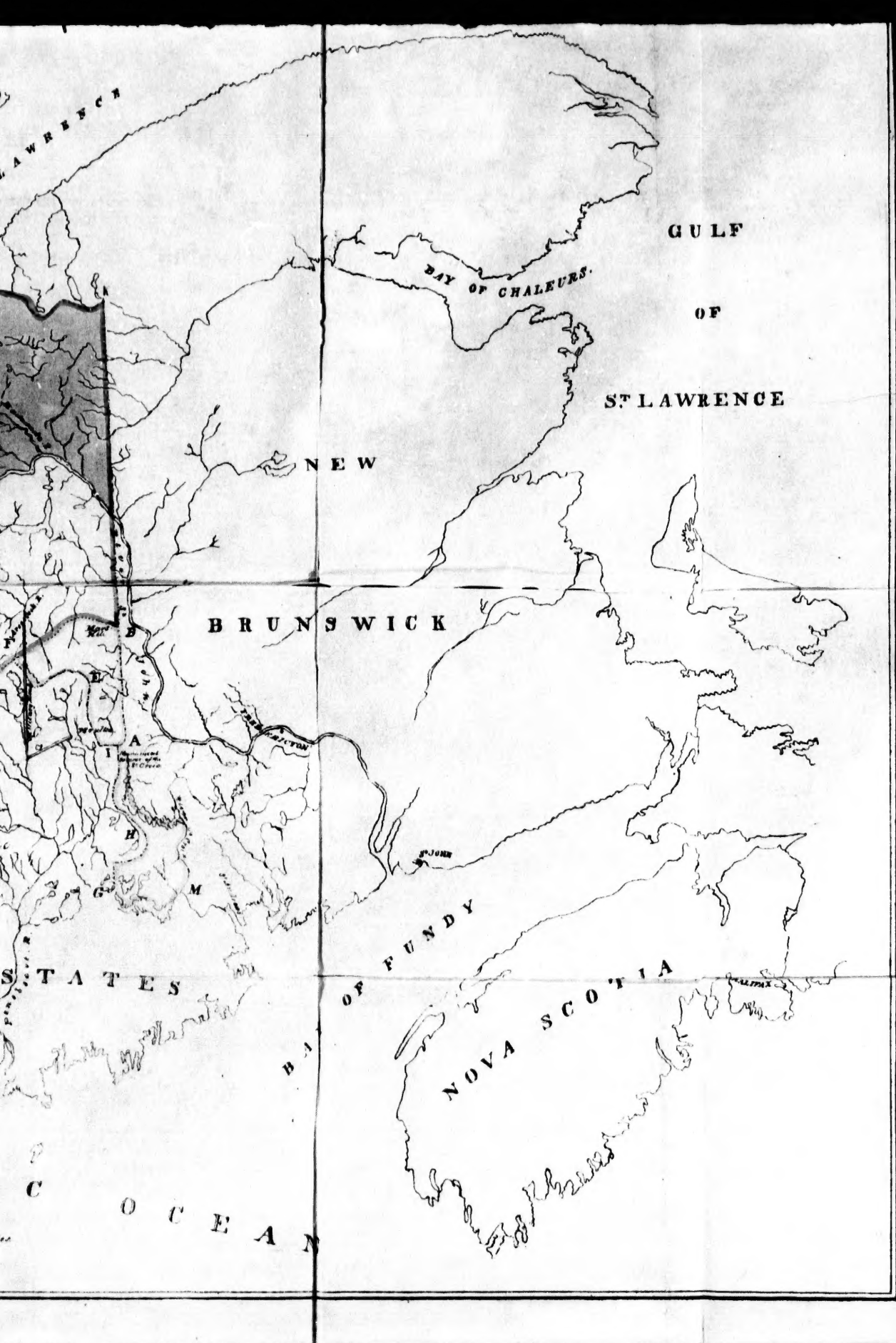
SKETCH OF THE DISPUTED TERRITORY.



ATLANTIC

OCEAN

0 10 20 30 40 50 60 70 80 90 100 Miles



U.S. DEPARTMENT OF THE INTERIOR

Geological Survey

UNITED STATES OF NORTH AMERICA

WATER

RESOURCES

REMARKS
ON THE
DISPUTED NORTH-WESTERN BOUNDARY
OF
NEW BRUNSWICK,
BORDERING ON THE
UNITED STATES OF NORTH AMERICA,
WITH AN
Explanatory Sketch.

BY CAPTAIN P. YULE,
ROYAL ENGINEERS.

LONDON:
JAMES RIDGWAY AND SONS, PICCADILLY.
1838.

REFERENCES TO THE SKETCH.

1. B.K.C.F. is the outline of the Disputed Territory.

2. The line M.A.B.F.C.D.D. as laid down in British maps, separates New Brunswick from the United States.—A. is the source of that branch of the St. Croix which was established by Convention in 1798 as the point of departure, instead of G., the source of the western or true main branch. The boundary has been erroneously continued in a straight line, north from A as far as Mars Hill, whence, to the source of the Mettiamette River, it is disputed by the United States.

3. Supposing that the Convention of 1798, establishing the eastern branch to represent the true main branch is irrevocable, the line — · — · — A.E.F. shews how the boundary should be traced according to the just interpretation of the Treaty of 1783, that is to say—not crossing any rivers or streams, but keeping on the ridge, dividing American waters on the one hand, from British waters on the other; thus securing to the two countries the whole courses of those rivers and their tributaries, the mouths of which are known and acknowledged by each party as belonging to the other.

4. The line — · — · — · — · — G.H.I.E.F. shews a line traced from G, the source of the true main branch, according to the same principle as the line A.E.F., viz. along the dividing ridge of the running waters.

If we were to go back to the Treaty of 1783, *this is the true boundary.*

5. B.K.C. traced north from Mars Hill, shews the boundary claimed by the United States.

6. The space (coloured blue) is that which, in 1831, was awarded to Great Britain by the King of Holland; the remainder being given to the United States; this was agreed to by the former, but refused by the United States.

ADVERTISEMENT.

THIS question was elaborately discussed when the British and United States' Governments prepared to submit their respective claims to the arbitration of the King of Holland in 1830-1, but it has never been brought before the public, resting solely on the basis of the fulfilment of the Treaty of 1783.

These Notes are not intended fully to supply this deficiency ; but a view is offered of some of the points in dispute, which, it is trusted, will appear new even to persons who have already paid attention to the discussion.

It is proper to premise that recent events* have occurred which shew that the time is not unsuitable for reverting to the state of this question.

Another attempt, being a repetition of that which took place in August 1831, has been made to test our vigilance in the Disputed Territory ; and, as before, it has been promptly met by the Governor of New Brunswick.

In the month of May last (1837), an Agent who was employed, under the supposed authority of the State of Maine, to take an account of the inhabitants of Madawasca, north of the river St. John, was seized and committed to prison in Fredericton.

The Governor of Maine issued soon afterwards a

* This was written in summer, 1837.

General Order, summoning the militia to be ready
 " to obey such Orders as the security of the State
 may require."

This appearance of disturbance on the frontier
 of New Brunswick excited no attention in England ;
 and it is such marks of indifference in their fellow-
 subjects, so discouraging to the Colonists, on which
 the United States chiefly rely for final success in
 their negotiations with this country.

The 2nd Article of the Treaty of 1783 to which
 these Notes relate is as follows :

" And that all disputes which might arise on the
 " subject of the Boundaries of the said United
 " States may be prevented, it is hereby agreed and
 " declared, that the following are and shall be
 " their Boundaries, viz. from the north-west angle
 " of Nova Scotia; viz. that angle which is formed
 " by a line drawn due north from the source of St.
 " Croix to the Highlands, along the said High-
 " lands which divide those rivers that empty them-
 " selves into the river St. Lawrence from those
 " which fall into the Atlantic Ocean, to the north-
 " westernmost head of the Connecticut River ;
 " thence down along the middle of that river to
 " the forty-fifth degree of north latitude ; from
 " thence by a line due west on said latitude until it
 " strikes the River Iroquors, or Cataraque ; thence
 " straight to the head of St. Mary's River, and
 " thence down along the middle of St. Mary's over
 " to the Atlantic Ocenn. East, by a line to be
 " drawn along the middle of the River St. Croix
 " from its mouth in the Bay of Fundy to its source,

" and from its source directly north to the aforesaid
 " Highlands which divide the rivers that fall into
 " the Atlantic Ocean from those which fall into the
 " St. Lawrence, comprehending all Islands within
 " twenty leagues of any part of the shores of the
 " United States, and lying between lines to be
 " drawn due east from the points where the afore-
 " said Boundaries between Nova Scotia on the one
 " part, and East Florida on the other, shall respec-
 " tively touch the Bay of Fundy and the Atlantic
 " Ocean, excepting such Islands as now or hereto-
 " fore have been within the limits of the said Pro-
 " vince of Nova Scotia."

May 1838.

Since the above was written, the events which
 have occurred in Canada add greatly to the interest
 of our relations with the United States, and render
 it more than ever desirable to bring the Boundary
 Question to a conclusion.

REMARKS,

&c. &c.

SEVERAL official documents on this subject were published in the United States, in the early part of last year: they consist of a Message from the President, with a copy of the correspondence relating to the "North-eastern Boundary of the United States," commencing July 21st, 1832, and ending March 5th, 1836:—of Reports presented to the Legislature of the State of Maine, from a Committee which was instructed "to enquire into the expediency of providing by law for the appointment of Commissioners on the part of this State, by the consent of the Government of the United States, to survey a line between this State and the Province of New Brunswick, according to the treaty of 1783, to establish monuments in such places as shall be fixed by said Commissioners, and by Commissioners to be appointed on the part of the Government of Great Britain;"—of a Review of the subject in No. 93, of the North American Review, of October 1836, and of Articles in Newspapers. The Review is written in a tem-

* This correspondence up to a still later date has been laid before Parliament.

perate tone, but the documents from Maine are evidently calculated to excite popular feeling.

When any change takes place in our commercial relations with the United States, or any foreign country, we are not long left in ignorance of it, because its influence makes itself felt through a large portion of the community ; but of a question which directly affects the local interests of our North American Provinces, only we are comparatively both ignorant and indifferent.

It is accordingly under great disadvantages that we discuss with that country any matters but those bearing on our commerce ; for there is scarcely an individual in it who is not acquainted with the whole history of their relations with us, and who does not believe that such subjects are of as much popular interest with us as with them. A native of the United States is not to be convinced, unless he comes to England, that our ignorance of their concerns does not proceed from affectation, or from any unwillingness to open our eyes to a sense of their importance, as if the acknowledgment were offensive to our national vanity.

Under the circumstances of great keenness, of greater perseverance in the attainment of any object, particularly from Great Britain, and of superior information, especially that depending on local knowledge, on the part of the United States, it appears to be a duty to the people of this country, and of our North American Colonies, to shew how gradually, but steadily, the United States, by their

perseverance, have obtained nearly every point hitherto in dispute between us, and we shall make an enumeration of some which occur to us.

1. In October, 1798, we yielded the main branch of the St. Croix, and accepted the eastern branch as the boundary, although the western branch was always considered to be the main one, and is even now so designated, not only by the Indians, but by the inhabitants of the United States along its western bank.

By this convention the line from the source of the St. Croix, which was to be drawn North, according to the treaty of 1783, to meet certain Highlands, was removed so far to the east, that the Americans acquired by it a tract of valuable country.* We were entitled to hope that this act of conciliation would tend to facilitate the subsequent arrangements for the fulfilment of the treaty.

Instead of which it added to the difficulty.

A line to the north from the true source of the St. Croix, would reach a hilly country sooner than the line from the present monument at A. If this was not known to the United States Commissioners, they could not but be aware, that such a line would shortly cross a *branch of the Penobscot*, a very important circumstance, which by this convention they adroitly got rid of.

But although we thus gave up a considerable extent of country, it is certainly consonant with strict justice that any subsequent difficulty in ful-

* M. A. B. F. I. G. -- See Sketch.

filling the terms of the treaty arising from this conventional main branch of the St. Croix should be settled with reference to the effect produced by the prolongation of the north line from the true main branch. For this we had, and have a right to look to the United States Government, and as they have proposed to us to revert to the treaty of 1783, as the exclusive guide, rendering null, of course, all the operations since that time, unless by special exception, in the pending arrangements; this important point should be borne in mind. It might fairly be propounded as a question to the United States —what course they would have pursued, had the line north from the conventional source of the St. Croix passed over a branch of the Penobscot, as that from the true source does.

But, according to the just definition of a line to be drawn to the "Highlands," it should never cross any stream at all, from what branch soever of the St. Croix it shall proceed. It should keep along the ridge, dividing the waters running to the left hand and those running to the right hand; and it is a ridge of this description which, farther to the westward, separates the waters falling into the St. Lawrence from those falling into the Atlantic ocean.

Instead of this course of proceeding, we committed the gross mistake of seeking for an absolutely uninterrupted range of Highlands, although, according to every authority, such Highlands mean the dividing ridge of running waters. Then our

Commissioners passively allowed a line to be traced onwards, until it nearly passed a mountain called Mars Hill: there they thought proper to stop, although the line does not touch this mountain, but is more than a mile to the eastward of it, and this they pronounced to be the sought-for Highlands. The United States people complain of the assumption by us of this point as a termination to the north line from the monument: a step of such a character is certainly calculated to injure a good cause: it does not fulfil the required condition of the treaty; and it bears the mark of a sudden conviction, on the part of our Commissioners, of having made a mistake in going too far north, and of being uncertain how much farther they might not have to go on the same principle, so they grasped at this shadow of a right interpretation of the treaty as a desperate resource. But had the north line attained even the summit of Mars Hill, that mountain has no distinct connection with a continuous range of the same character; it does not even form that description of country which, we have erroneously insisted, should be found by the United States' Government north of the St. John, in order to justify their claim to the line of boundary assumed by them in that quarter.

2. The next point which we yielded, referred to the line of boundary which was to proceed from the Lake of the Woods, "in a due west course to the river Mississippi;" but even the *sources* of that river lie south of the latitude of the Lake of the

Woods. We assented, however, to the proposal of the United States' Commissioners, (see Sir Charles R. Vaughan's letter to Mr. Forsyth, dated Washington, December 8, 1834,) that the natural object the Mississippi should be put out of consideration, and that the line due west from the Lake of the Woods should be the boundary; yet, when a similar rule of construction was proposed by us for determining the north-western boundary of New Brunswick, mark the reply of Mr. Forsyth, in his letter of April 28, 1834: "This line of demarcation was not established as the true boundary prescribed by the treaty of 1783," (how could an impossibility be established as the truth?) "but was a conventional substitute for it of a parallel of latitude." That is, a convention is to be the rule when it shall be favourable to the United States.

3. We yielded Barnhard's Island, in the River St. Lawrence, of which it commands the navigation.

4. We yielded Grande Ile, in the River Niagara.*

5. We yielded, at least we consented to yield, according to the award of the King of Holland, dated at the Hague, 1st January, 1831, the territory belonging to us, as being north of the true line of latitude 45°, although by doing so we gave up an important military position; Rouse's Point, on Lake Champlain, which they had begun to fortify.

* This island has lately become better known, in the transactions connected with Navy Island.

6. We consented to yield, according to the same award, a large portion of the still disputed territory, not only south but north, of the River St. John, thus submitting to being cut off for ever from direct communication with Quebec; the difference by the circuitous route from that city to Frederictown being upwards of seventy miles, or about two-sevenths of the whole distance.

7. At the peace of 1814, we restored the valuable territory of Michigan, which had been ours by conquest from the commencement of the war in 1812.

8. At the same peace we also restored Eastport, Castine, &c., also taken during the war.

There are other points, such as privileges connected with the fisheries, which we have yielded.

But what have the United States yielded in return?

Having made no conquest, notwithstanding their boastful projects and repeated attempts last war, in which they were foiled "by a few British troops, and by the loyal and brave Canadians, who, on one occasion, unsupported by a single soldier of the regular army, drove back the enemy from their territory;"* never having been able to retain, for any length of time, a spot of ground on our side of the frontier, a great extent of which is an imaginary line; at the peace they had no conquest to restore.

Since the peace, we have yielded every point

* Quarterly Review, No. 66, p. 425.

in discussion, excepting that which forms the subject of these remarks, but the United States have in return yielded nothing; and the result of our ever yielding and their never giving way, is, that a territory which has never ceased to be under British jurisdiction, is pronounced, in one of their official documents, to be under a "foreign government;" and their "unoffending citizens" are "said to have 'been dragged from 'their rightful homes, in time of peace,' and to 'have had 'imposed on them the indignities of 'a foreign gaol.'"

These unoffending citizens, however, presumed to exercise the rights of sovereignty in a territory under British jurisdiction, by proceeding to make elections in August, 1831, under the authority of the State of Maine, for which they were awarded the just punishment alluded to, owing to the firmness and promptitude of Major-General, Sir Archibald Campbell, then Governor of New Brunswick.

From what has been stated, it will be evident that the pretensions of the United States are of comparatively recent origin; and they are admissible now only from the circumstance of their ever having been entertained at all; and since that territory is very important to us as bearing on the peaceable security of our North American possessions, this country should be put on its guard against any further unconditional surrender of the rights of our Colonists to these demands of their neighbours.

There is no doubt that the United States did not lay claim to this territory at the time of concluding the Treaty of 1783 ; for, at an early stage of it, they were directly refused the St. John as the boundary ; but they had the cunning forbearance and political sagacity to rest satisfied with the vague description of the boundary given in the Treaty, as their best alternative, because it left such an opening for a claim as would necessarily, in after times, lead to discussion ; minor points being obtained in subsequent negotiations, (as enumerated above,) they have eventually, by perseverance, got so much, each step affording a footing for advancing some new pretension, that they now assume, as a line of boundary, one extending for 120 miles along the St. Lawrence, at the average distance of only twenty miles !!

Indeed the St. Croix, mentioned in the Treaty, with the interpretation *they* have given to it, is a better boundary for them than would have been the St. John which *we* refused ; and we never could possibly intend, by agreeing to the St. Croix, to place them in a still better position.

The whole course of their proceedings has been admirably calculated to gain their point with a nation so proverbially facile as ours has been in the negotiation of American affairs.

First they persuade our Commissioners, in the year 1798, to yield only a branch of an insignificant river—a trifle to our magnanimous nation ; then they make no immediate objection to our

Commissioners making Mars-hill the termination of the North line, but receive it as a point to be discussed, although sensible of its incompatibility with the conditions of the Treaty, so that at any future and suitable time its absurdity could be rendered available in argument by the easy proof of its weak character.

One untenable point being argued on, its necessary abandonment by us weakens the whole cause, and renders the opposite view of it more popular with our antagonists, who may thus, with good show of reason, complain of the spirit shewn by us towards the fulfilment of the Treaty.

It may be asserted, that, if a nation shall find itself convicted of having inadvertently yielded certain advantages, it is bound to adhere to the decisions of its authorised agents, with all their defects; but, on the other hand, if a foreign people rigidly exact mistaken concessions to the letter, they should no longer be considered as entitled to share such privileges as are usually granted to the most favoured nations, bound by ties of mutual interest.

We are ready to admit, that the letter of the Treaty of 1783, is not clearly against the claim of the United States; of its spirit, as entirely in favour of Great Britain, scarcely an American, we conceive can doubt.

In all transactions between parties, their obvious meaning and intention must be considered; tried by this test, no one can suppose that Great Britain

conceded such an advantage as is given by this claim on the part of the United States.

A contract which might at first operate against one party may eventually become so changed in its effect, neither party conceiving that it lost any advantage as compared with the other, that both would be willing to leave it untouched : but this Treaty, which is not yet fulfilled, and of which the terms are doubtful in expression, though sure in their meaning, was always against us, and ever must be so.

Nothing can change its erroneous, unequitable nature; as would be the case, for instance, in a matter of compromise with respect to an estate, of which the smaller portion might be equivalent by containing valuable timber, soil, or mines.

But the American claim grasps at the whole ; yet any portion yielded to them north of St. John would neutralize the benefit to Great Britain of any compromise.

It was evidently the true intent of the treaty of 1783 to secure to the respective parties the whole courses of those rivers and their tributaries,* the mouths of which were mutually known and acknowledged as belonging to the respective parties ; the sources of these were to serve as starting points from which at any time, and for ever, while water

* " Les eaux pendantes." Mem. Eng. et Fr. Com. 4to. 1755, p. 184. This rule was followed at the Treaty of the Pyrenees between France and Spain ; also in the discussions under the Treaty of Utrecht on the boundaries of Nova Scotia or Acadia.

flows, as each successive tributary was ascended to its source, every inhabitant of the country could point out the frontier line.

Nothing more simple than such a boundary as nature thus points out; to determine it neither commissioners, nor men of science need be summoned to the assistance of two Governments willing to agree.

In a Court of Equity such a case as this, on a glance at the relative situation of the two countries as to their frontier, would at once be decided in favour of Great Britain.

We appear always to have got tired of their importunity, and got rid of it by yielding.

Yet, if we now blame our Commissioners in 1783 and 1798, the United States people may say that we only yielded points of little value, and must not make a merit of such concessions when the struggle of important interests begins.

The argument would be excellent for them now that they have got nearly every thing, and would serve as the ordinary proof derived from every experience how vain it is to expect from them or any other people that a spirit of conciliation, unless mutual, is of any value in national disputes, and if it is not on the contrary very injurious to the yielding party, by encouraging a spirit of perseverance in encroachment on the other.

Nevertheless we are inclined to do justice to the sincerity of the United States Government for some years past in the negotiation of this matter.

It is the popular feeling against which, by the former mode of conducting it, that Government and ours have now to contend ; for by not settling it sooner time has been allowed for a new generation to spring up in the United States, who from their earliest years have imbibed the conviction that we withhold from them a portion of their territory.

The following is an instance of their usual mode of treating this question :—In one of their recent official documents above mentioned, it is stated that we requested at the Treaty of Ghent “such a variation of the line of frontier as might secure a direct communication between Quebec and Halifax.” It is probable enough that in the course of discussion, allusion might have been made by us to such an arrangement as might meet the case of a decision being made against us, but was the chance of this occurrence to be considered as an admission on our side of doubt of the justice of our claim ? Certainly not : it arose merely in the course of the wide range which such discussions may be expected to take. Where is the formal proposal by us to obtain the variation of our acknowledged line ?

“Resort was then had to ingenuity,” continues the document ; and the proof adduced is, “that there was much doubt whether it does not already belong to Great Britain,” but there is nothing to imply either our concession or such a doubt as could be entertained by any person who

examines the subject, unless it be that which has been virtually afforded by too prolonged a discussion.

The United States' writers quote our Commissions to Governors, in which are given a description of the limits of their separate jurisdictions, to prove what they assert to be our former interpretation of boundaries within our Colonies. What right, it may be asked, have they to found a claim on the words of a document, which is private as regards them? How and where did they obtain it? Besides, a commission of such a nature is drawn up with little care as regards the definition of a boundary, common to another Province under the same Government, since any question between them could be settled by the order of the Secretary of State for the Colonies.

One of their Committees reports: "It is time
 " indeed for us to begin to search, and in the right
 " places, too, in order to put a stop to these per-
 " petual encroachments upon our territory and
 " rights. Our first object should be to ascertain
 " and trace the North Boundary of Nova Scotia,
 " which is the South Boundary of the Province of
 " Quebec, and see if Canada comes as far down as
 " Mars Hill." There are no objections to giving
 the United States' agents every facility to examine
 the country on the disputed line between New
 Brunswick and them, but as to the line between
 Canada and Nova Scotia, which is common to
 those two Provinces only, the local authorities

must look to the encroachment and stop the intruders.

The United States have a very convenient mode of negotiating with a foreign power. If it is any object which they claim,—the indemnification* by France for a recent instance,—they are unanimous: their national honour is touched; but when they are asked to yield, then we hear of “State rights:” “You must understand our Constitution:” We “do insist that no power is granted by the Constitution of the United States to limit or change the boundary of a state or cede part of its territory without its consent.”

The general Government calls these “constitutional difficulties insuperable,” and the individual State “never will concede the principle that its territory can be transferred;” will allow of no award, and declares for the whole claim and no modification of it.

With the bravado of any separate State, the British Government have nothing to do; it may, however, be considered as a species of feeler, which can be disclaimed, according to circumstances, by the general Government.

In the late negotiations, a proposal was made by the Secretary of State of the United States, to Sir Charles Vaughan (letter of April 30th, 1833) that, “if after more accurate surveys shall have been made, it should be found that the North course,

* Indemnification for losses suffered by American citizens during the last war.

“ from the head of St. Croix, should not reach the
 “ Highlands, which answer the description of those
 “ designated in the treaty of 1783, then, a direct
 “ line from the head of the St. Croix, whatever
 “ may be its direction to such Highlands, ought to
 “ be adopted, and the line would still be con-
 “ formable to the treaty.”

But Sir Charles Vaughan, in his letter of December 8, 1834, remarks, “ that the operations of surveying Commissioners can lead to no practical result, unless it be settled beforehand, which are the rivers that fall into the St. Lawrence, and which are those that fall into the Atlantic Ocean,” and the question is, whether the term, “ Bay of Fundy” is synonymous with “ Atlantic Ocean,” or is a geographical feature *per se*. We contend that it is; but the Americans maintain not only that the Bay of Fundy is a part of the Atlantic Ocean, but the gulph of St. Lawrence too, and even the Bay of Chaleur within it; Sir Charles Vaughan points out very clearly the distinction between these two terms,* on which the United States’ Se-

* His statement is, “ that the framers of the treaty of 1783, when they used in the second Article, the words ‘ rivers which fall into the Atlantic Ocean,’ could not possibly have meant any rivers, whose mouths were situate to the eastward of the river St. Croix, which falls into the Bay of Fundy. It is thought sufficient, on the present occasion, to advert, in support of this construction of the words of the treaty, to the striking fact that, whilst the river St. Mary, which was to form the southern boundary of the United States, is described in the second Article of the treaty, as falling into the At-

cretary of State, in his letter of April 28th, 1835, briefly remarks that, " he is not apprised of any thing new, either of fact or argument, that has now, for the first time, been brought forward. The inutility of renewing the discussion on this point is so obvious, that the undersigned deems it necessary merely to suggest that, however convincing and satisfactory the argument of the

atlantic Ocean, the river St. Croix, which was to form the eastern boundary, not merely in the same article of the treaty, but in the very next member of the sentence, is described as falling into the Bay of Fundy, while a little further on in the same article, the eastern line of boundary, where it terminates at the mouth of the river St. Croix, and the southern line of boundary, where it terminates at the mouth of the river St. Mary, are described ' as respectively touching the Bay of Fundy' and the ' Atlantic Ocean.'

Can it be seriously maintained that, in a treaty for settling a question of such vast importance as a boundary between two contiguous states, a matter which, of all others, imperiously requires preciseness of expression, the terms ' Bay of Fundy,' and ' Atlantic Ocean,' should have been thus set, not once only, but twice in the same article, in pointed opposition to each other, and yet that no real distinction should have been intended to be drawn between them; but these terms should have been carelessly used as synonymous and convertible expressions? His Majesty's Government conceive that no reasonable doubt can be entertained that, where the St. Croix, the eastern limit of the United States, is described as falling into the Bay of Fundy, it is advisedly so described, in contradistinction to the other rivers which are mentioned in the same article, as flowing into the Atlantic Ocean.

But, if the St. Croix, whose mouth is situate at the very entrance of the Bay of Fundy, is not an Atlantic river in the meaning of the treaty, none of the rivers which discharge themselves to the eastward of St. Croix, and higher up in the bay, can possibly be considered as such."

“ British Government is to itself, it has been ever “ considered by the United States as altogether “ inconclusive.” We look upon this reply as unsuited to the gravity of diplomatic correspondence, and as an obvious symptom of what occurs in ordinary argument, when a person, feeling the weakness of his cause, affects to despise anything new that his antagonist can advance.

We fully agree with Sir Charles Vaughan, that, under all present circumstances, farther surveys would be useless. Any line, whether due north, or to the west of it, must soon strike the tributaries either of the Penobscot or the St. John ; we have stated above, that it should never cross a running stream, as, before reaching it from the St. Croix, “ Highlands,” i. e. the ridge dividing streams, must be reached.

It is also to be observed, that even if the St. John were allowed by us to be an Atlantic river, and supposing that the north line, or the lately proposed line, west of the north line, had reached any one of its tributaries, it could not consistently with the terms of the treaty, quit that tributary to go on to the main branch, when the sources of streams, i. e. the ridges dividing running waters, were the very objects serving to direct the course of the boundary line ; and it would be a still greater anomaly by going north to pass the principal, i. e. the St. John, and then be guided by the tributary ; tributaries having been passed over before.

No line can be drawn in any direction so as to

reach Highlands dividing running waters, according to conditions in which both nations agree, unless it proceeds straight to the source of the Kennebec, and the Mettiamette,* and as this would give more than we claim, *it cannot be the line* intended by the United States' Government by their proposal of April 30, 1833; the effect of which, therefore, is only to delay the final decision. Yet such a line would be only in conformity with the rule proposed by themselves, viz. first, to find the natural object, (of which there can be no doubt,) then to proceed to it straight from any other given point.

In this point the conduct of the Americans forms a striking contrast with the frank and friendly spirit evinced by the British Government relative to this affair.

After the award of the King of Holland in 1831, we did not cease, during a period of three years, to express our readiness to abide by it, notwithstanding its very disadvantageous nature to us, although the Americans at once shewed a disposition not to do the same.

At length, seeing the inutility of waiting until the United States would become actuated by a like conciliating spirit, we reluctantly abandoned the hope of having this question terminated, as of right it ought to have been, as the result of the mediation of the King of Holland.

With respect to the territory itself, its possession is to be regarded in several points of view; either

* A line from A to C.

as a means of attack and defence ; as a matter of national honour ; or one of mere marketable value.

It is obvious that any war carried on in North America, must be purely defensive on our side, and while we should be weakened by the loss of this ground, the position of the United States would not, by possessing it, be affected as to the power of defence, but would be greatly enhanced in its means of attack.

As to the point of national honour, neither party is touched ; it has been hitherto treated only as a matter of local interest.

Whatever confidence we may have in the justice of our claim, yet since it has been so long considered as a matter of doubt and negotiation, which never would have been the case had we known the country as it was our bounden duty to do, and schemes of enterprise having been directed towards this territory south of the River St John, more by the American people than by us, it has been suggested, in order to assist the general Government of the United States, to indemnify the State of Maine for the loss of that which was looked upon as more than a prospective gain, and which, (however in a public point of view unfounded,) may be so considered with respect to individuals—that a sum of money amounting to the value of land in the adjoining part of the State of Maine at this time, should be advanced for the purpose of contributing towards the purchase of lands for that State in the Western Territory.

It has been asserted, by high authority in the

United States, that the territory in dispute is of no use to them. As a mere matter of opinion, from such a quarter, it is of importance.

But it is of value to us.

Where, then, would be the spirit of the treaty inculcating it, as the duty of the two countries, to establish such an intercourse as may secure to both perpetual peace and harmony? Would it be shown, in their insisting on acquiring a tract of country which has always been under British jurisdiction; and, in retaining which, we are entitled to consider ourselves secure from the possibility of imputation of being influenced merely "by a desire to acquire territory;" the belief of which, however, is disclaimed by the United States' Government—(Mr. Forsyth's letter to Mr. Bankhead; Washington, Feb. 29, 1836),—the said tract affording to the United States no additional defence in war, the yielding of the claim to which affects no national feelings; while, on the other hand, their possession of it would cut off the intercourse between our Provinces during peace,—in war, would deprive us of barely the means of defence, but none of attack.

On our side the object is peaceable: it is security against attack, which every nation has a right to insist on in its negotiations during peace; on the other side, the object of its possession by the United States is hostile, ambitious,—holding over us the power, not merely to invade, but to stop our intercourse with, the Canadas at the very commencement of hostilities, before they might be even known in England.

This could be shown in detail, by pointing out the nature of the country, so as to be obvious even to those unaccustomed to such inquiries ; but a discussion of this nature would be out of place here.

In concluding, then, we have merely to call attention to the lines in the accompanying sketch, which, whether proceeding from G, the same source of the true main branch of the St. Croix, or from A, the source of the branch established as the boundary by convention, are traced on the principle of following up the ridge dividing British waters falling into the Bay of Fundy on one hand, from the Penobscot or American waters falling into the Atlantic Ocean on the other, until we arrive, without having crossed any stream whatever, at the point C, where the line falls on the ridge, which in a similar manner divides the Mettiarmette, a branch of the Chaudière, or British waters on the one hand, from the Kennebec or American waters on the other hand : and this ridge continued until it reaches the parallel of latitude 45°, completes the range of Highlands fulfilling, as we conceive, the terms of the Treaty.

1st June, 1837.

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